

REPORT
OF THE
GOVERNANCE REVIEW TASK FORCE
OF THE
BAYLOR UNIVERSITY BOARD OF REGENTS

JANUARY 16, 2017

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Introduction

The Task Force

In November 2016, the Governance and Compensation Committee of the Baylor University (“Baylor” or the “University”) Board of Regents (the “Board”) established a Governance Review Task Force (the “Task Force”) to review the University’s current Board governance structure and practices, including the relationship between the Board and the University, and to make recommendations to the Governance and Compensation Committee and the Board regarding governance best practices.

The Task Force was comprised of six individuals with extensive for-profit and notforprofit board experience. It included an equal number of members who were current Baylor regents and who had never been Baylor regents.

The Task Force recognized that, given the situation at Baylor and the need for an outside perspective, the non-regent members of the Task Force should spearhead certain tasks. As a result, Mr. Gregory D. Brenneman, a non-regent, chaired the Task Force, and the non-regent members prepared initial drafts of this report and held discussions with relevant parties.

Lawyers at Gibson, Dunn & Crutcher assisted the Task Force, but the recommendations and conclusions in this report are those of the Task Force. Further, to encourage candor, the Task Force spoke with members of the Baylor community without lawyers present.

The following individuals comprised the Task Force:

1. **Robert E. Beauchamp** – Mr. Beauchamp is a Baylor regent and Chair of BMC Software. He also serves on the boards of the Raytheon Company and Forcepoint LLC and previously served on the boards of many other companies, including National Oilwell Varco, Inc. and Memorial Hermann Health System. He received his bachelor’s degree in finance from the University of Texas and his Master of Science degree in management from Houston Baptist University.
2. **Douglas Y. Bech** – Mr. Bech is Chief Executive Officer and owner of Raintree Resorts International, which he founded in 1997. He also serves on the boards of HollyFrontier Corporation, for which he is lead independent director and Chair of its Compensation Committee, j2 Global, for which he is Chair of the Compensation Committee and the Governance Committee, CIM Commercial Trust Corporation, and four private companies. Mr. Bech has also served as a director for many years of the American

Resort Development Association, as well as nine other public companies over the past 35 years. Prior to Mr. Bech's business career, he was a longtime partner at AndrewsKurth in Houston, with a focus on corporate finance and securities practice, and was named one of America's Best Lawyers. Mr. Bech is a 1967 graduate of Baylor with a B.A. in political science, a 1970 graduate of The University of Texas School of Law and a member of the Texas and New York bars.

3. **Gregory D. Brenneman** – Mr. Brenneman is Executive Chairman of CCMP Capital. He also serves on the boards of Baylor College of Medicine, The Home Depot, Inc., of which he is the Lead Independent Director, Milacron, of which he is the Chair of the Nominating and Governance Committee, PQ Corporation, Volotea and Baker Hughes. Previously, Mr. Brenneman served as President and CEO of Quiznos Subs, Chairman and CEO of Burger King Corporation, and President and COO of Continental Airlines and served on the Boards of ADP, BFI, Continental Airlines, Francesca's Collections and J.Crew. He received his bachelor's degree in accounting/finance from Washburn University of Topeka, Kansas and his M.B.A. from Harvard Business School.
4. **Jerry K. Clements** – Chair and Managing Partner of Locke Lord, an international law firm recognized as one of the Global 100 firms, Ms. Clements has represented Fortune 500 companies in a wide range of complex commercial litigation. She currently serves as a Baylor regent and is a 1981 graduate of Baylor Law School. The National Law Review and Dallas Business Journal have recognized her as one of the most influential women lawyers in the United States and Texas.
5. **Paul L. Foster** – A 1979 Bachelor of Business Administration graduate of Baylor, Mr. Foster founded and currently serves as Chair of Western Refining, a Fortune 200 company. Mr. Foster has served for nine years on the University of Texas System Board of Regents and serves on the Texas Business Leadership Council and on the board of the El Paso branch of the Dallas Federal Reserve Bank.
6. **Larry P. Heard** – Also a Baylor regent, Mr. Heard is President and Chief Executive Officer of Transwestern, a global diversified real estate organization actively involved in investment, development and real estate services. He also serves as vice chair and on the executive committee of the board of trustees of the Baylor College of Medicine. He earned a bachelor's of business administration degree in finance from Baylor in 1980.

Process, Scope and Context of the Task Force's Review

The Task Force undertook a critical review of Baylor's existing governance practices and policies, including Board interaction with University administration, faculty, alumni, past regents, donors and others with whom Baylor has significant relationships. The Task Force also tested Baylor's governance practices and policies against the ten basic responsibilities of a board provided by the Association of Governing Boards of Universities and Colleges in its guide for independent colleges and universities.¹

The Task Force endeavored to make recommendations consistent with best practices and the overarching principle that an effective Board requires exceptional regents who organize themselves effectively and act according to clear standards of regent performance to fulfill Baylor's mission and promote Baylor's highest values.

At the outset, the Task Force acknowledged a widely held perception by many Baylor constituents that the Board tends to micromanage University administrative matters and that it has not been open regarding how it has made its decisions, selected regents, or chosen its leadership. The Task Force recommendations seek to address this perception by promoting greater transparency, openness, and accountability and effective oversight. The Task Force believes that these recommendations will help build greater trust and confidence within the Baylor community.

The Task Force also based its recommendations on the belief that one of the Board's primary responsibilities is finding and retaining exceptional executive leadership, particularly the President, who, in turn, must be responsible for running the University and selecting his or her own executive staff. The Board has the ultimate responsibility to promote the University's mission, protect its values and traditions, and ensure its viability, health, and welfare. It fulfills this responsibility by working with the President to set the strategic direction of the University, providing appropriate risk and reputation oversight, and otherwise serving the University with distinction. In fulfilling these responsibilities, the Board must conduct regular and effective reviews of the President, each individual regent, the Board committees, and the Board itself.

In addition to relying on its members' significant experience on for-profit and non-profit boards, the Task Force undertook the following work to ensure its review was thorough and its recommendations reflected best practices:

¹ EFFECTIVE GOVERNING BOARDS: A GUIDE FOR MEMBERS OF GOVERNING BOARDS OF INDEPENDENT COLLEGES AND UNIVERSITIES (2011).

- ❖ First, the Task Force reviewed the Certificate of Formation and Bylaws of Baylor and other governing materials and policies adopted by the Board (the “Governing Documents”).
- ❖ Second, the Task Force reviewed reports from other universities that had completed similar reviews to consider and distill best practices for board governance. The Task Force found particularly helpful the report and recommendations issued in 2006 by a special committee on governance of the American University Board of Trustees (the “American University Report”).
- ❖ Third, with the assistance of counsel, the Task Force surveyed a broad selection of authoritative literature and commentary on the governance of colleges and universities, including the accreditation standards relating to governance of the Southern Association of Colleges and Schools Commission on Colleges (the “SACSCOC”), statements on governance and other publications by the Association of Governing Boards of Universities and Colleges, and non-profit governance materials from the American Bar Association (“ABA”).
- ❖ Finally, the non-regent members of the Task Force spoke with individuals representing a crosssection of University constituents, including faculty, administrators, current and past regents, and distinguished alumni, and engaged in informal dialogue with other Baylor constituents for the express purpose of carefully considering the views of the Baylor community in the preparation of this report. The Task Force found the insights of those individuals to be quite valuable and accordingly placed significant weight on their input.

The Task Force acknowledges that the Board has already taken a number of steps recently to strengthen governance, including creating an Executive Committee (which the Task Force believes is essential for a Board this size), revising and improving charters for each of its committees, adopting a new Statement of Commitment and Responsibility, and identifying and recruiting highly qualified, diverse new regents, including those with professional backgrounds in higher education. The Task Force intends for the recommendations to build on many of these changes. If adopted, these recommendations will require certain changes to the Board’s existing Governing Documents.

I. Board Composition and Procedures

1.a. Diversity

- . The Board should continue to increase the overall diversity of race, gender, and background of the regents. The Task Force emphasizes that diversifying the Board should include selecting new regents from a wide variety of professional and educational backgrounds and ages and, to the extent regents are alumni of Baylor, from a broad range of graduating classes and geographies, all to provide the greatest variety of perspectives and broader personal networks. The Board would particularly benefit from additional expertise in the higher education field. The lifetime endeavors of regents should also include the arts, sciences, technology, medicine and health, higher education, communications and marketing, as well as business and law. To the extent practical, regents, and particularly Board leadership and committee chairs, should have strong backgrounds in public company and non-profit board service to contribute best practices and experiences to the Board. While the Task Force understands that efforts to increase the diversity of the Board are ongoing, these efforts will be more successful in conjunction with greater involvement by members of various University constituents, whose reputation and career successes provide added trust in the nomination of regents as set forth in these recommendations.

1.b. Size of the Board

- . The Governing Documents set the size of the Board at 16 to 44. The Board's current size of 34 regents is consistent with many, if not most, other private universities that seek to have experienced business leaders, distinguished alumni and representatives of other constituencies participate in university governance. The recent creation of an Executive Committee comprised of the Chair, Vice Chair, and committee chairs should facilitate efficient and effective decision-making, while still permitting oversight by all regents. The Executive Committee currently has eight members, and will grow to between 10 and 15 members due to the Task Force's recommendations, but should not have more than 15 members. Further, given the additional duties for which regents would be responsible following implementation of this report's recommendations regarding committee expansion, committee membership, and attendance, the Task Force believes that maintaining the current Board size would facilitate proper functioning of the Board and its committees.

1.c. Term and Term Limits

- . The Governing Documents establish three-year terms for regents and a limit of three consecutive terms, following which a regent must sit out for at least one year prior to

rejoining the Board. Terms and term limits of this duration are common among private universities, and the Task Force does not recommend changing these provisions. The Task Force does recommend looking at these terms and term limits again in five years to confirm that they still reflect best practices.

1.d. Existing Regent Qualifications

- . The Governing Documents provide that three quarters of the regents must be Baptist, and the remainder must be Christian and active members of a local church from an historic Christian tradition. At least half of the regents must also have had Texas as their principal state of residence at the time of their election. Up to one quarter of the Board is selected by the Baptist General Convention of Texas and confirmed by the Board. Approximately 10% of the voting regents are elected by University alumni (the “Alumni-Elected Regents”). The Task Force does not recommend changes to these requirements or the requirements for selecting faculty and student regents. Within this overall framework, the Board is encouraged to continue increasing diversity and identifying new regents with expertise in higher education.

1.e. Removal of Regents

- . The Governing Documents provide that regents may only be removed by the Board for “cause” (defined as any behavior inconsistent with the role of a regent, including the breach of a regent’s fiduciary duty to the University, duties imposed on a regent by law, rule, or regulation, including those imposed on the regents by associations in which the University is a member, or failure to meet expectations established by the Board). The Governing Documents also provide each regent the right to challenge his or her removal by demanding confidential arbitration.

The Task Force recommends two changes to the regent removal process. First, the Task Force recommends eliminating the for “cause” removal standard for all regents who are not Alumni-Elected Regents. Instead, if the newly formed Nominating, Governance and Regent Leadership Committee (the “Governance Committee”) determines that removal of a regent would be appropriate and in the best interests of the University, the Governance Committee would recommend removal to the Executive Committee, after which the Executive Committee may recommend removal to the full Board. The subject regent would be notified of the intent to pursue removal at the same time the Governance Committee notifies the Executive Committee so that such regent has an opportunity to respond to the removal recommendation. The notice would include a

summary of the reasons for the Governance Committee’s determination and recommendation to the Executive Committee. Following recommendation by the Executive Committee, the Board would then have to approve the removal by a majority vote.

The Task Force believes that this removal procedure would be consistent with SACSCOC standards for removal of members of governing boards, which require the “governing board ha[ve] a policy whereby members can be dismissed only for appropriate reasons and by a fair process.”² The proposed procedure reflects that “[m]embers of the governing board need to exercise their responsibilities without fear of retaliatory measures, such as removal from office by arbitrary or capricious means,” and that “[s]ubstantive and procedural processes protect the interests of the institution and the members of the governing board.”³

Second, the Task Force believes that a lengthy and adversarial process where regents may challenge their removal through confidential arbitration, while may be required for Alumni-Elected Regents due to the settlement agreement with the Baylor Line Foundation, is inadvisable for other regents because, among other things, it may lead to an entrenched Board. To the extent implementing any of these changes requires notice to the Baylor Line Foundation under the settlement agreement, the Board should contact the Baylor Line Foundation as soon as possible to provide notice and to seek to include the Alumni-Elected Regents under this same “majority vote” standard.

1.f. Affirmation and Commitments by Regents

- . The Task Force does not recommend substantive modification to the Statement of Commitment and Responsibilities, the Regent Code of Conduct, or the Code of Ethics, which the Board has recently reviewed, modified and/or implemented. However, the Task Force does recommend regents annually reaffirm and recommit to these documents.

1.g. Confidentiality

- . The Task Force believes that each regent, as an ambassador of the University, should meet informally with the many constituents of the Baylor community to discuss the mission and work of Baylor and the Board. However, individual regents cannot and should not

2 S. ASS’N OF COLLS. AND SCH. COMM’N ON COLLS., RESOURCE MANUAL FOR THE PRINCIPLES OF ACCREDITATION: FOUNDATIONS FOR QUALITY ENHANCEMENT 40 (2012).

3 *Id.*

attempt to speak for the Board, which should speak with one voice. Individuals regents should listen, explain publicly announced decisions of the Board, and bring to the Board concerns expressed by members of the Baylor community. Regents should not, however, discuss the details of Board or committee discussions or disclose how other regents vote. Further, public announcements and press communications should be the duty of the Chair, in consultation with the President.

The Task Force's recommendations align with best practices in university and other contexts. According to the ABA, directors must treat "all matters involving the [nonprofit] corporation" as confidential "until there has been general public disclosure or unless the information is a matter of public record or common knowledge."⁴ Regents should presume that "all current information about legitimate board or corporate activities" is confidential.⁵ The ABA further emphasizes that directors must always "retain the confidentiality of the nonprofit's information and board deliberations, unless such information becomes publicly known through no fault of the director, or is otherwise a matter of public record."⁶ When unsure whether information is public, the regent should refer the matter to the Chair, the President, or one of the University's other senior executives.⁷ The regents' annual reaffirmation of standards should highlight the Regent Code of Conduct's current confidentiality standards, which follow the ABA's guidance.

1.h. New Regent Orientation

- . It is vital that each regent understands his or her duties and receives effective training.

The Task Force understands that the University conducts a regent orientation program. The Task Force recommends that the Governance Committee, together with the Board Secretary, promptly update the existing program to assure regent orientation continues to be mandatory, is robust, employs evolving best practices for new regents, and is available to incumbent regents. The Task Force recommends that the leadership of the Board continue to take an active role in improving and overseeing the regent orientation program and that the Board Secretary administer the program to foster continuity as new regents are integrated into the Board.

1.i. Regent Assessment

4 AM. BAR ASS'N, *GUIDEBOOK FOR DIRECTORS OF NONPROFIT CORPORATIONS* 67 (3d ed. 2012).

5 *Id.*

6 AM. BAR ASS'N, *NONPROFIT GOVERNANCE AND MANAGEMENT* 11 (3d ed. 2011).

7 *Id.*

- . The Board requires each regent to submit an annual selfassessment based on the board assessment instrument developed by BoardSource, an organization seeking to bolster nonprofit board leadership.⁸ The Task Force believes this assessment should seek to encourage each regent to make suggestions for improving the functioning of the Board, Board committees, and special task forces of the Board, including meeting procedures. The Governance Committee should continue its annual practice of accumulating feedback from the individual regents and place additional emphasis on reviewing the results annually with the whole Board. Additionally, the Governance Committee should conduct a full “360-degree” review of each regent’s performance prior to the end of the regent’s three-year term. The 360degree review should include an assessment of the regent by other regents and faculty and administrators with whom he or she had significant contact. The Governance Committee should complete the 360-degree review prior to any recommendation by the Governance Committee to re-nominate the regent for a second or third term. While the Task Force does not oppose the use of consultants in facilitating the assessment of regents, the Governance Committee and the full Board must retain responsibility for ensuring the quality of regents.

1.j. Board and Board Committee Effectiveness Assessments

- . In addition to assessing regent performance, the Board and each committee should conduct an annual selfassessment, focusing on performance of responsibilities, including a review of charters, agendas, information flow, and meeting procedures, as well as the appropriate experience and skill sets of committee members.

II. Regent Selection

1.a. General Selection Process

- . The Task Force recommends that the Governance Committee create a Selection Task Force composed of members of the Governance Committee and distinguished Baylor alumni and friends who are not regents, who have had significant and successful careers in business, education, the arts and sciences and other varied professional fields, as well as experience serving on public company or major nonprofit governing boards, and who come from diverse backgrounds and geographic locations so that they are best positioned to assist the committee in identifying and reviewing the best qualified individuals to be regents. To bring outside perspective to the regent selection process,

⁸ See BoardSource, “Board Self-Assessment for Nonprofit Organization,” *available at* <https://boardsource.org/resources-solutions/assessing-performance/board-self-assessment/>.

at least half the members should be individuals who are not regents and, if they had previously served as regents, have not done so for at least the prior six years. The Task Force also recommends that the Selection Task Force include as non-voting members both the President and the Vice President primarily in charge of advancement and development. The Task Force believes that this recommendation is one of the most important in this report as the consistent feedback from the Baylor community was that the scope of regent candidates needs to be broadened beyond those persons known by existing regents or identified through the current process.

1.b. Special Selection Process; Student, Faculty, Bear Foundation and “B” Association Regents

- . The Task Force does not recommend changing the existing processes for selecting and electing regents through the Baptist General Convention of Texas, the Alumni-Elected Regents, or other special categories of regents designated under the Governing Documents, such as the President or student or faculty regents.

The Board currently includes a non-voting regent nominated by each of the Bear Foundation (a fundraising organization for athletics) and the Baylor "B" Association (an association of athletic letter winners). The Task Force suggests that the Board grant voting rights to these regents and increase their terms to three years to match the terms of the other regents.

There are two non-voting student regents. The Task Force believes that having two student regents provides the student body with appropriate representation and that staggering student regents' two-year terms would provide for continuity. Ideally, one of the student regents would be serving a second year of service while the other is in his or her first year of service. The Task Force also believes that students should serve in a non-voting capacity due to the limited duration of their tenure on the Board.

The Board also has one non-voting faculty regent. Currently, the Governance and Compensation Committee nominates the faculty regent based on the recommendation of the University Provost's Office and in consultation with the chair of the Academic and Student Affairs Committee. The Task Force recommends that the Board increase the number of faculty regents to two, set the terms of the faculty regents at three years, and grant faculty regents voting rights to enrich the Board's understanding and analysis of issues from the perspective of those in higher education. As with student regents, the two faculty regents should serve in staggered terms to facilitate continuity. Faculty

members who had discussions with the Task Force support the recommendations in this paragraph.

The Task Force recommends that all regents be given all Board materials unless there is a compelling reason for not doing so, such as for those matters related to compensation or, in the case of non-voting regents, attorney-client privileged information. Of course, any regent should be recused from a Board or committee meeting when matters are discussed with respect to which such regent is conflicted.

1.c. Regent Emeriti

- . The Task Force recommends that the Board grant non-voting regent emeritus status to a limited number of former regents who have provided extraordinary service to Baylor. Regent emeriti should not have term limits, but the Board should annually confirm each regent emeritus's continued service on the Board. Regent emeriti should be welcome at, but not required to attend, every Board and committee meeting, including executive sessions, unless the Board determines otherwise. The Task Force recommends that the Board seek to honor at least five former regents with this special status and elect one such individual to be chair of the regent emeriti for a term of up to three years. The chair should be a voting member of the Board during his or her term as chair and should be required to meet the regent attendance requirements for nonemeriti regents described in the following section of this report. As it deems appropriate, the Board could also appoint regent emeriti to serve on ad hoc committees that the Board may create from time to time to evaluate new initiatives of the University.

The Board should take further steps to strengthen its relationships with regent emeriti and other important alumni and friends of Baylor with significant institutional knowledge. The Task Force further recommends sponsoring at least annually events at which past regents, regent emeriti, important alumni and friends, and active regents may interact and learn more about the Board's work.

III. Board Governance and Administration

1.a. Leadership

- . Under the existing governance structure, the Governance and Compensation Committee annually nominates a Board Chair and a Vice Chair. The Chair then nominates the chairs of the standing committees. In the future, the Task Force recommends that the Governance Committee nominate the chairs of the standing committees and

membership of the committees in consultation with the Chair and Vice Chairs and after soliciting recommendations from all regents. The full Board should then approve the Chair, Vice Chairs, chairs of the standing committees and membership of the committees. The Task Force is concerned that the existing process places too much power in the hands of the Chair and could thus be too insular. Prior to recommending individuals to serve as the Board Chair and Vice Chairs, the Task Force recommends that the Governance Committee seek input from all regents as to who is qualified and capable, placing a special emphasis on the board experience (at Baylor and elsewhere) and public profile of the nominees to increase the likelihood that the broader Baylor community will embrace newly selected regents. The Task Force also recommends expanding leadership from one to three Vice Chairs, each to have responsibility for specific areas of Board work. The Chair and Vice Chairs, in consultation with the Executive Committee and Governance Committee, should divide responsibilities among the Vice Chairs. Three Vice Chairs should better facilitate the functioning of the Board, improving communication, transparency, feedback, and decision-making, and clarify the roles of future Board leaders. To foster discussions and optimize decision-making, the Task Force specifically recommends that the Vice Chairs be responsible for seeking the opinions of all regents regarding topics about which there may be significant differences. The Task Force recommends that all the regents evaluate and assess the performance of the Board's leadership and committee chairs as part of the annual evaluation process. The Governance Committee should review the evaluations of the Chair, Vice Chairs, and committee chairs before it submits such individuals to the Board for possible annual reappointment.

1.b. Eligibility of Chair and Vice Chairs

- . The Task Force recommends that individuals serve at least one full three-year term as regents prior to election to a one-year term as Chair or Vice Chair and that an individual should not serve in those positions for more than three one-year terms. The Task Force further suggests that the Chair be required to resign from the Board no later than one year following completion of his or her term as Chair. For his or her one-year term as past Chair, the past Chair would retain full voting rights. The Task Force believes that the past Chair leaving the Board after one year will support the new Chair in setting an appropriate forward-looking course for the Board. No Chair or past Chair should serve on any standing committee, but the Chair and past Chair should be non-voting members

of all committees. One or more of the Vice Chairs may serve as a committee chair upon the recommendation of the Governance Committee and approval of the Board, but no Vice Chair should be required to chair a standing committee.

1.c. Duties of Vice Chairs

- . The Task Force believes that, in addition to any responsibilities the Vice Chairs may have chairing standing committees, the duties of the Vice Chairs should remain flexible and open to discussion by the Chair and Vice Chairs in consultation with the Executive Committee. The Chair and Vice Chairs should describe the general division of responsibilities among them to the full Board at the first meeting following their election to ensure all regents clearly understand the areas each Vice Chair will oversee. The Task Force believes that the foregoing will promote greater involvement and accountability by all regents and not just those who hold leadership positions.

1.d. Duties of Chair

- . The Chair serves as the primary liaison between the Board and the President, faculty, news media, and other external constituencies. The Chair should set the Board agenda and lead meetings and executive sessions of the Board. If the Chair cannot attend a meeting, the Chair should designate a Vice Chair to lead the meeting. The Chair should attend as many committee meetings as possible or designate a Vice Chair to attend. Likewise, the President should attend as many such meetings as possible. The Task Force also considered whether the Chair and Vice Chairs should meet regularly with the President other than at Executive Committee and Board meetings. In the Task Force's judgment, meeting more frequently could be beneficial, although such meetings should not be mandatory. The Chair, Vice Chairs and President should periodically discuss the frequency of such meetings. The Board Chair and Vice Chairs should serve in both supportive and oversight capacities and not attempt to manage the University's day-to-day operations.

1.e. Board Committees

- . The Task Force recommends changing the committees as noted below to improve efficiency and effectiveness and promote greater involvement by the regents.

1.e.1) *Committee Service.* The Task Force recommends that each regent should be required to serve on at least one committee and be encouraged to serve on two, but no more than two, committees. Each regent should provide input regarding

the committees on which he or she would be best suited. No Chair or past Chair should serve as a voting member of any committee but, as with all regents, he or she should be encouraged to attend as many committee meetings as possible. The Task Force believes that the change in the titles and responsibilities of the committees as described below, and the service by most regents on two committees, will create greater interaction among the regents that, in turn, will foster greater collegiality, better decision-making, and stronger engagement by all regents. The Task Force believes that a dispersal of work and authority among the regents will contribute to the effective functioning of the Board and to each regent's sense of engagement and purpose.

1.e.2) *Meeting Attendees and Materials.* All regents should be invited to attend every committee meeting, including those of the Executive Committee, as well as all executive sessions of committees, regardless of whether they are members of a particular committee, unless they have a conflict of interest with respect to the subject matter under discussion. The President, Chair, Vice Chairs, and past Chair should attend all committee meetings as ex-officio members. Each Committee should also include the participation of one or more University administrators and faculty members to provide the information, background material, and other insights necessary and desirable for effective oversight by each committee of the areas for which it is responsible. The Task Force recognizes that there may be situations in which it is appropriate to prohibit attendance by nonmembers or nonregents at particular committee meetings, but the Board Chair or committee chair should use this prerogative sparingly. If the Board Chair or committee chair determines to exclude a regent who previously expressed an intention to attend a particular committee meeting from such meeting, the Board Chair or committee chair should provide notice to the excluded regent and explain the rationale to the Board in order to facilitate transparency. By the same token, all regents should be provided with, or given access to, all Board and committee materials except in those cases where provision of particular materials would be inappropriate due to a conflict of interest or legal limitations on access.

1.e.3) *Committee Roles and Meeting Schedule.* The Task Force believes that future Board committees should better fulfill their strategic and oversight purposes and facilitate fuller participation by all committee members, the President,

and the members of the administration or faculty charged with management of the particular areas that the committees oversee. Based on feedback from the Baylor community, the Task Force is concerned that committees may periodically devote excessive time to granular management issues that should be handled by the President and administrative staff and give inadequate time to strategic matters and general oversight. While it is not unusual on boards for this to happen from time to time, to enable the regents to provide proper strategic and risk management oversight, the Task Force recommends that the chair of each committee be experienced in board governance and work with the President to set out an agenda for the committee that covers the material in the appropriate level of detail. If any committee meeting takes more than two-to-three hours, the committee chair and the President should review whether the committee material is too detailed. The committee chairs should streamline committee meetings and ensure that University administration is empowered to implement each committee's strategic directions so that the committee can focus on oversight. The Governance Committee and Board Secretary should provide the committee chairs with guidance and training regarding how to run committee meetings effectively. Managing the committee agendas in the manner described above will require a cultural change within the Board. Each committee should schedule its meeting to avoid conflicting with any other committee meeting to the extent possible; shorter, more effective committee meetings with agendas and materials provided in advance should facilitate scheduling. Committees should permit attendance by telephone, especially if a committee meets outside the normal Board meeting dates. However, committees should seek to minimize telephonic participation when possible.

1.e.4) *Standing Committee Titles and Responsibilities.* The current standing committees of the Board are Academic and Student Affairs, Audit and Compliance, Finance and Facilities, Governance and Compensation, and Outreach. The Task Force recommends that the standing committees be reconstituted to consist of the following:

- 1.e.4.i) Academic;
- 1.e.4.ii) Student Life;
- 1.e.4.iii) Audit;

- 1.e.4.iv) Compliance and Regulatory, which will include review and oversight of all athletic compliance requirements, including Title IX;
- 1.e.4.v) Finance and Facilities;
- 1.e.4.vi) Nominating, Governance and Regent Leadership (referred to in this report as the “Governance Committee”);
- 1.e.4.vii) University Leadership and Compensation; and
- 1.e.4.viii) Advancement and Development, which will include oversight of general marketing and communications relating to giving campaigns and University donors.

The Task Force believes this reconstitution of the committees will better align committee work with the responsibilities of the Board and more effectively distribute those responsibilities. In particular, the separation of governance and compensation into separate committees reflects best practice. The Governance Committee should handle governance matters, and the newly formed University Leadership and Compensation Committee should set compensation for senior leaders and review the talent and succession planning across the University.

The Task Force also recommends that the existing Audit and Compliance Committee be separated into two committees—an Audit Committee and a Compliance and Regulatory Committee—to accommodate the added workload required to address legal and regulatory compliance matters, such as Title IX, while still maintaining the necessary standards for financial statement review and assessment of the quality of the financial reporting.

Furthermore, the Task Force recognizes that athletics are the “front porch” of, and carry significant reputational risk for, any university. The Task Force understands the University administration began implementing a comprehensive policy on student-athlete background assessments in response to the recommendations of Pepper Hamilton set forth in the “Baylor University Report of External and Independent Review.” The Task Force believes it is imperative for a University office that reports outside the Athletic Department, such as the Athletic Compliance Office, which is also responsible to Baylor University Compliance and to the President, be involved in the implementation of such policies.

The Task Forces also believes it is imperative for the Board to ensure implementation of, and compliance with, policies that will identify instances of misconduct by prospective student-athletes, including comprehensive background assessments. Such assessments should include: (1) use of available state and federal databases; (2) verification of responses to information questionnaires; (3) internet searches including search terms designed to identify prior criminal misconduct and expulsion or suspension from another educational institution or sports team; and (4) consent forms authorizing the release to Baylor of all student conduct records from any prior college or university the prospective student-athlete may have attended – all as necessary to determine whether prior misconduct should preclude admission to the University.

In addition, the Task Force acknowledges the University has also instituted a committee of senior administrators outside of the athletic department to assist the athletic department in assessing discipline for serious infractions to ensure consistent standards. The Task Force recommends that the Compliance and Regulatory Committee undertake an immediate and thorough review of the new background assessment policy and the implementation thereof. The Task Force further recommends that the results of the efforts regarding athletic background assessments and assessments of serious infractions be reported directly to the Compliance and Regulatory Committee at each committee meeting and reported to the full Board during its committee report at Board meetings. In addition, the full Board should receive a direct update from Baylor University Compliance at least annually. The Task Force believes that these actions will give University constituents more clarity as Baylor seeks to implement the Pepper Hamilton recommendations.

The Task Force also recommends dividing the existing Academic and Student Affairs Committee into two committees to provide the increased oversight required for continued accreditation of the University in each of these two vital areas. Finally, the Task Force recommends that the Advancement and Development Committee focus on giving to Baylor and donor advancement.

The Task Force recommends the Governance Committee work with each committee and one or more members of the administration and faculty assigned to work with such committee to develop a charter describing such committee's scope of duties and oversight responsibilities as well as an annual calendar for each committee

designating the times at which various periodic matters should be reviewed and approved by the committee. The Board should approve the charter and calendar for each standing committee, and the charter and calendar should guide the preparation of materials for committee meetings. Each standing committee should report annually to the Board that it has reviewed its charter and committee calendar and should submit any proposed changes to the Governance Committee for consideration and recommendation for Board approval.

These changes should also provide for greater transparency and openness among the regents. The Task Force emphasizes that the fundamental role of the Board and its committees is to exercise their fiduciary duties to the University and that the activities of the standing committees should bolster, and not undermine or weaken, that essential role.

1.e.5) *Executive Committee.* The Executive Committee is currently an optional committee under the Governing Documents. Given the size of the Board, the Task Force recommends making the Executive Committee a permanent committee limited to no more than 15 members. The Executive Committee is empowered to conduct the business of the Board between Board meetings to the extent allowed by the Governing Documents. It should meet at least monthly and be a sounding board for the President. The Chair, Vice Chairs, past Chair, chairs of each committee, and the chair of the regent emeriti should be the voting members of the Executive Committee, and the President should be a non-voting member. The Task Force recommends that the President be the primary, but not the sole, link between the Board and Executive Committee, on the one hand, and University administration, on the other. The Task Force recommends that no person (other than the President) serve on the Executive Committee more than six years.

As noted, the Task Force recognizes that while the President is accountable to the Board for the proper administration of the University, he or she is the chief executive officer of the University. The Executive Committee should support and oversee the performance of the President in that role and ensure that the Board and President agree on key strategic matters and means of implementation. Executive Committee meetings are particularly important because they present an indispensable forum for a regular, routine working relationship between the Board and the President and are a vital means by which Board leadership maintains familiarity with, and exercises

oversight over and support for, the President in addressing the most significant issues facing the University. As appropriate, the Executive Committee should invite senior administration officials to these meetings to provide additional insight on issues under discussion.

The Task Force recommends that, in populating the Executive Committee through the recommendations to the Board regarding the regents to be selected as Vice Chairs and committee chairs, the Governance Committee be mindful of the same diversity considerations discussed above in “Board Composition and Procedures” in populating the Board as a whole. The Executive Committee should inform the full Board in a timely manner of Executive Committee actions, and the Board should approve or ratify those matters requiring Board approval. The Board and the Executive Committee should reach an understanding on the matters that require Board approval or ratification. The Executive Committee should, however, be empowered to take final action if action before the next Board meeting is needed to protect the University’s interests that would otherwise be compromised by delay or if a matter is simply administrative, is needed for the efficient functioning of the University, and does not compromise any significant interest or prerogative of the Board as a whole.

1.e.6) *Committee Executive Sessions.* Each committee should hold an executive session at the beginning or end of each meeting, as determined by the committee chair, for discussion of confidential matters. As with Board executive sessions, committee executive sessions should not include the President or other members of the University administration.

1.e.7) *Committee Reports to the Board.* At each Board meeting, the chair of each committee should deliver a robust summary report so that all regents are fully informed about the committee’s work. Committee chairs should also share agendas for committee meetings with the full Board.

1.f. Board Meetings.

1.f.1) *Frequency.* The Task Force recommends no change to the frequency of Board meetings.

1.f.2) *Time Allotted.* The Task Force encourages the Board to allot time for a “nightbefore” dinner plus a full day for Board meetings, except that the annual

strategy meeting described below may last more than one day. Committee meetings should be in-person and, if possible, scheduled the day before a Board meeting, with every effort made to hold these meetings at separate times during the day to permit attendance by the Board Chair, the President and all other regents who wish to attend multiple committee meetings. The Task Force acknowledges that maintaining eight standing committees (excluding the Executive Committee) may require holding meetings a week or two prior to the actual Board meeting dates, but that efforts should be made to hold meetings at separate times the day before each Board meeting to allow in-person interaction and facilitate the attendance by the President, the assigned faculty, student or administration officials, and other regents.

- 1.f.3) *Attendance.* Regents should attend Board meetings in person absent extenuating circumstances. Each regent should be required to attend in person at least 75% of regularly scheduled Board meetings and strive to attend all special Board meetings. The Task Force recommends a similar guideline for committee meetings except that committees should allow attendance by telephone. The Board Secretary should provide a dial-in number for Board meetings, but attendance by telephone should not count toward the 75% requirement. The 360-degree reviews of regents at the end of their terms should consider the attendance records of each regent. The Task Force recommends that the Board's overarching policy should be to include all regents, voting and nonvoting, in Board deliberations unless there is a manifestly sound reason not to do so.

The Task Force notes that there may be circumstances in which certain regents should be recused from Board deliberations in accordance with the Board's conflicts of interest policy. For example, recusal may be necessary for the President or faculty or student regents when a matter entails privacy considerations. Recusal also may be necessary when a Board decision involves a financial or other conflict of interest of any regent. The affected regents and the Board Chair should weigh such considerations prudently and determine to what extent to exclude the regent from such deliberations, and communicate their determination to the full Board at the time.

- 1.f.4) *Calendar; Agenda.* The Chair and Vice Chairs should establish, with the advice of the President, an annual Board calendar to set regular meeting dates on approximately the same days and same times each year.

The agenda for each Board meeting should include and cover:

- 1.f.4.i) the President's report;
 - 1.f.4.ii) the Executive Committee report by the Chair and ratification by the Board of Executive Committee actions as appropriate;
 - 1.f.4.iii) comprehensive committee reports;
 - 1.f.4.iv) risk review;
 - 1.f.4.v) accreditation and regulatory compliance, including Title IX updates;
 - 1.f.4.vi) other business; and
 - 1.f.4.vii) an executive session.
- 1.f.5) *Executive Session.* The Board should hold an executive session at the beginning or end of each meeting, or as determined by the Chair, to discuss confidential matters. The executive session should not include the President or other members of the University administration.
- 1.f.6) *Annual Strategic Planning.* The Task Force recommends that one Board meeting per year focus on Baylor's strategic plan. The strategic planning meeting should include appropriate University leadership and faculty. This meeting should be the most important Board meeting of the year, at which the Board analyzes the University's goals in connection with the University's strategic plan. The Board also should review and assess at the meeting how the University is achieving its goal to carry out its mission. Further, the Board should consider alternative sources of revenue beyond the historical revenue of tuition and fundraising.

1.g. Presidential Assessment

- . As noted previously in this report, a significant responsibility of the Board is to appoint, periodically review the compensation of, and provide feedback to, the President. Utilizing the appropriate committees, the Board should regularly assess presidential performance in advancing the mission and strategic plan for the University and performing his or her administrative responsibilities so that the Board can make appropriate adjustments to expectations, actions and compensation. Regular dialogue should enable the Board and the President to work together to enhance the University's objectives and be reasonably assured that the University administration is appropriately

handling all University functions. The Board should link the President's compensation to his or her performance, and while committee-level presidential performance assessment should reside in the Executive Committee, subject to the Board's review of its findings, the University Leadership and Compensation Committee should directly oversee the particularized assessment and compensation of the President and other senior executive officers of the University.

IV. Regent Giving

The Task Force believes that giving to Baylor is an important aspect of being a regent and that all regents should continue to provide leadership in this area. In making these recommendations, the Task Force has noted that many universities and other nonprofit organizations have broad annual giving programs in which the leadership participates 100% and that this participation has an excellent impact on other potential donors. These gifts generally are in addition to other areas of specific giving. The Task Force recommends that regents demonstrate leadership and commitment to the University's mission by establishing an Annual Regents Fund or similar giving vehicle designed with the Office of University Development, with the goal of full Board participation to the extent of each regent's ability. Participation in the Annual Regents Fund would be over and above regents' donations to particular University departments or programs, such as athletics. The Annual Regents Fund would seek to fund special University needs to further the non-athletic missions of Baylor, as recommended by the President and with the approval of the Advancement and Development Committee, in an effort to encourage greater giving to these important aspects of Baylor.

V. Office of the Board Secretary

1.a. Secretary to the Board

- . The Task Force recommends the Board create a fulltime senior position of Secretary to the Board (the "Board Secretary") to serve as the principal officer to the Board in the administration of its responsibilities and as the principal staff officer to the regents in the discharge of their fiduciary oversight responsibilities. The Task Force recommends the Board Secretary be responsible for advising the Board regarding the design and implementation of policies and procedures through which the Board may most effectively fulfill its governance responsibilities within the mission of the University and for providing appropriate advice, support and administrative assistance to aid the Board and its committees.

1.b. Terms of Employment

- . The Task Force recommends the Board Secretary be elected by the vote of a majority of the Board, serve without fixed term, and report directly to the Board. The Board should set the Board Secretary's performance evaluation and compensation. The Task Force further recommends the Executive Committee consult with other universities utilizing a board secretary or similar administrator to identify best practices prior to more fully defining the role of this position. At a minimum, the Task Force strongly recommends that the individual appointed as Board Secretary demonstrate strong board experience and expertise, excellent communication and organizational skills, impeccable character, exceptional judgment, and the ability to work with and within the Baylor community. Additionally, the Task Force recommends that the Board Secretary be a lawyer. The Task Force also recommends the Board Secretary be empowered to interact with the President and senior leadership on behalf of the Board under the guidance of the Chair and Vice Chairs.

1.c. Core Responsibilities

- . The Task Force suggests the core responsibilities of the Board Secretary include the following:
 - 1.c.1) Preparing for and managing Board and committee meetings and retreats, including planning and scheduling meetings and retreats, working with the Chair, Vice Chairs and committee chairs, in coordination with the President and senior University officials, to set meeting agendas, assuring each member of the Board is provided with advance background materials necessary for meaningful discussion and decision-making, attending all Board and committee meetings, overseeing the preparation of meeting minutes, and monitoring matters requiring further actions by, or reports to, the Board;
 - 1.c.2) Developing and overseeing the new regent orientation program in conjunction with the Governance Committee and identifying other topics requiring ongoing training;
 - 1.c.3) Maintaining the Board website;
 - 1.c.4) Reviewing recommendations and reports for the Board to ensure materials are timely, complete, and concise;

1.c.5) Serving as “historian of the Board” by filing, archiving, and preserving official documents, correspondence, and proceedings of the Board and its committees and conducting research as requested; and

1.c.6) Supervising any staff that may be hired to assist the Board Secretary.

1.d. Staff for the Board Secretary

- . The Board should authorize the hiring of an appropriate staff for the Board Secretary to provide for the scheduling and meeting functions of the Board and its standing committees.

VI. Transparency and Engagement of the Board with Key Constituencies

As discussed in the introduction to this report, the Task Force tailored its recommendations specifically to improve the transparency and accountability of the Board. In particular, the Task Force believes that its recommendations regarding input for regent selection, selection of Board leadership, changes to the removal process for regents, greater regent emeriti involvement, rotation off the Board of the past Chair after one year, reorganization of committee responsibilities, and streamlining of committee meetings will substantially improve transparency and accountability.

To bolster trust and confidence within the Baylor community, the Task Force recommends that the Board Secretary maintain a Board website to inform constituents regarding the Board calendar and agenda and provide summaries of Board meetings. The website should include the biographical information on each regent and his or her term of office and committees and other Board leadership positions. It should also include copies of the Governing Documents and this report. Additionally, the Board should prepare quarterly and annual reports to the Baylor community and post them on the website.

The Task Force recognizes the key role that faculty play in the University and understands that Board leadership has met with small groups of faculty in recent months to facilitate discussion and idea exchange. The Task Force encourages the Board to continue these meetings in addition to establishing the two voting faculty regent positions discussed previously in this report. Furthermore, the Task Force recommends that the Board empower the University Leadership and Compensation Committee to establish a cross-University task force reporting to the President to evaluate the various academic departments and administrative leadership to increase accountability, outline succession planning, and plan for the future. The President and the

crossUniversity task force should periodically update the University Leadership and Compensation Committee on its work. The Task Force understands that the faculty has also made this recommendation to the Board.

The Task Force also discussed whether to open Board and committee meetings to all interested members of the Baylor community. After extensive deliberations, the Task Force concluded that the specific recommendations in this report would sufficiently enhance accountability and transparency and that open meetings would risk unnecessarily disclosing competitive information and detract from the free and open exchange of views and robust dialogue that are necessary to fulfill the regents' fiduciary duties. The Task Force also recognized that very few other leading private universities open board meetings to broad attendance. A large majority of those with whom the Task Force held discussions did not advocate for open meetings.

VII. Future Reviews

The Task Force recommends that the Board form a follow-up task force in three to five years to evaluate the implementation and effectiveness of the recommendations contained in this report. The Task Force also recommends that 50% of the members of the new task force consist of individuals who have never been regents.

The Task Force also recommends that the Compliance and Regulatory Committee, with additional oversight from the full Board, place particular emphasis on ensuring that Baylor's Title IX training and policies are continually updated to adhere to best practices. Future reviews should specifically focus on the University's continuing compliance with Title IX.

VIII. Conclusion

After comprehensive review and extensive discussions during many meetings, the Task Force unanimously agreed on the recommendations set forth in this report. The Task Force extends its gratitude to the University community for its assistance in the process of preparing this report and thanks the Governance and Compensation Committee and the Board for the opportunity to serve Baylor.